

REMARKS

Applicant notes that the Examiner's restriction requirement of the prior Office Action dated September 2, 2004 has been deemed "final". Hence, claims 4, 7, 8 and 10-17 are withdrawn.

Submitted simultaneously herewith is an Information Disclosure Statement listing the patents of parent application number 09/948,646.

Claims 1-3, 5-6 and 9 presently stand rejected under 35 U.S.C. 102(b) as being anticipated by Hooberman. This rejection is respectfully traversed.


Specifically, the claims have been amended for clarity in defining the surface that contains the undulating configuration. Specifically, what was originally intended to be recited in Claim 1, as supported by the Specification, was that one or both of the proximal or distal surfaces of the pill contained the undulating configuration. These are labeled with reference numerals 70 and 72 in the drawings.

It appears that the Examiner's Section 102(b) rejection was based upon the pill having a center hole with castellated splines or grooves along the lumen of the center hole and are therefore transverse to the plane of the surface itself. The amendment to Claim 1 clarifies what was intended by defining that the undulating configuration extends parallel to the plane of the surface. This clarification language clearly distinguishes the castellated splines or grooves along the lumen of a center hole. Hence, reconsideration is respectfully requested.

Applicant respectfully requests the withdrawing of the finality of the subject Office Action since the earlier application was also subject to a restriction requirement and the claims examined on the merits in the earlier application were not the ones at issue in this application. Since the claims of both the earlier application and the subject application were subject to a restriction requirement, they are by definition patentably distinct and are not drawn to the same invention.

Favorable action is respectfully requested.

Respectfully submitted,




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CERTIFICATE OF MAILING

I HEREBY CERTIFY that the foregoing was transmitted via U.S. Express Mail (No. ED400304555US) to: Commissioner for Patents, P.O. Box 1450, Alexandria 22313-1450 on this the 16th day of February, 2005.

The Commissioner is hereby authorized to charge any additional fees which may be required at any time during the prosecution of this application without specific authorization, or credit any overpayment, to Deposit Account No. 50-1667.



Stefan V. Stein

cc: Halkey-Roberts Corporation